

# EUROPEAN PATENT OPPOSITION

## Procedural aspect for revocation of the European Patent

### Notice of opposition

**Notice of opposition shall be filed in a written reasoned statement.** The notice of opposition must contain: particulars of the opponent as provided; the number of the European patent against which opposition is filed, the name of the proprietor of the patent and the title of the invention; a statement of the extent to which the European patent is opposed and of the grounds on which the opposition is based, as well as an indication of the facts and evidence presented in support of these grounds; and if the opponent has appointed a [representative](#).

### When and where must be the opposition file?

The notice of the opposition must be filed **within nine months** of the publication of the mention of the grant of the European patent in the European Patent Bulletin. The notice must be filed at the EPO.

### EPO opposition fee

880,- EUR



### Admissibility

**Within nine months** of the publication of the mention of the grant of the European patent in the European Patent Bulletin, **any person** may give notice to the European Patent Office of opposition to that patent. **Notice of opposition must be substantiated** and **opposition fee must be paid**. **The opposition fee is 880,- EUR** (as of 23.7.2023). Compared to the revocation action before UPC (Unified Patent Court) 20 000,- EUR, it is a cheap procedure.

The opposition shall apply to the European patent in all the Contracting States in which that patent has effect. Opponents shall be parties to the opposition proceedings as well as the proprietor of the patent. Where a person provides evidence that in a Contracting State, following a final decision, he has been entered in the patent register of such State instead of the previous proprietor, such person shall, at his request, replace the previous proprietor in respect of such State.



## Examination of the opposition

If the opposition is admissible, the Opposition Division will examine, whether at least one ground for opposition prejudices the maintenance of the European patent. During this examination, the Opposition Division shall invite the parties, as often as necessary, to file observations on communications from another party or issued by itself. If the Opposition Division is of the opinion that at least one ground for opposition prejudices the maintenance of the European patent, it shall **revoke the patent**. Otherwise, it shall **reject the opposition**. If the Opposition Division is of the opinion that, taking into consideration the amendments made by the proprietor of the European patent during the opposition proceedings, the patent and the invention to which it relates

a) meet the requirements of this Convention, it shall decide to **maintain the patent as amended**, provided that the conditions laid down in the Implementing Regulations are fulfilled;

b) do not meet the requirements of this Convention, it shall revoke the patent.

## Grounds for opposition

Opposition may only be filed on the grounds that:

- (a) the subject-matter of the European patent is not patentable under Articles 52 to 57;
- (b) the European patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;
- (c) the subject-matter of the European patent extends beyond the content of the application as filed, or, if the patent was granted on a divisional application or on a new application filed under Article 61, beyond the content of the earlier application as filed.

**Clarity (Art. 84 EPC) is not a ground of opposition.**

## Amendment of the European patent

The description, claims and drawings may be amended, provided that the amendments are occasioned by a ground for opposition, even if that ground has not been invoked by the opponent.

In considering whether, a patent as amended meets the requirements of the EPC, the claims of the patent may be examined for compliance with the requirements of Article 84 EPC only when, and then only to the extent that the amendment introduces non-compliance with Article 84 EPC.

## Legal services

With my in-depth knowledge of the European patent system and procedures, I am committed to helping you challenge granted European patents and safeguard your business.

Contact me on [docket@bauerip.eu](mailto:docket@bauerip.eu)

Karel Bauer

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